

By Farabee

S.D. R. No. 36

Oggy

A JOINT RESOLUTION

1 proposing a constitutional amendment to change the name of the
2 Courts of Civil Appeals and the names and qualifications of the
3 justices of the Supreme Court, and to prescribe the jurisdiction
4 and authority of the appellate courts.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. That Article V, Section 1, of the Texas
7 Constitution be amended to read as follows:

8 Sec. 1. The judicial power of this State shall be vested in
9 one Supreme Court, in one Court of Criminal Appeals, in Courts of
10 [~~Civil~~] Appeals, in District Courts, in County Courts, in
11 Commissioners Courts, in Courts of Justices of the Peace, and in
12 such other courts as may be provided by law.

13 The Legislature may establish such other courts as it may
14 deem necessary and prescribe the jurisdiction and organization
15 thereof, and may conform the jurisdiction of the district and other
16 inferior courts thereto.

17 SECTION 2. That Article V, Section 2, of the Texas
18 Constitution be amended to read as follows:

19 Sec. 2. The Supreme Court shall consist of the [a] Chief
20 Justice of Texas and eight [~~Associate~~] Justices, any five of whom
21 shall constitute a quorum, and the concurrence of five shall be
22 necessary to a decision of a case; provided, that when the business
23 of the court may require, the court may sit in sections as
24 designated by the court to hear argument of causes and to consider

1 applications for writs of error or other preliminary matters. No
2 person shall be eligible to serve in the office of Chief Justice of
3 Texas or [~~Associate~~] Justice of the Supreme Court unless the person
4 is licensed to practice law in this state and is [he-be], at the
5 time of [his] election, a citizen of the United States and of this
6 state, and has [~~unless--he--shall--have~~] attained the age of
7 thirty-five years, and has [~~shall--have~~] been a practicing lawyer,
8 or a lawyer and judge of a court of record together at least ten
9 years. Said Justices shall be elected (three of them each two
10 years) by the qualified voters of the state at a general election;
11 shall hold their offices six years, or until their successors are
12 elected and qualified; and shall each receive such compensation as
13 shall be provided by law. In case of a vacancy in the office of
14 the Chief Justice of Texas or any Justice of the Supreme Court, the
15 Governor shall fill the vacancy until the next general election for
16 state officers, and at such general election the vacancy for the
17 unexpired term shall be filled by election by the qualified voters
18 of the state. The Justices of the Supreme Court who may be in
19 office at the time this amendment takes effect shall continue in
20 office until the expiration of their term of office under the
21 present Constitution, and until their successors are elected and
22 qualified. [~~The-Judges-of-the-Commission-of-Appeals-who-may-be-in~~
23 ~~office-at--the--time--this--amendment--takes--effect--shall--become~~
24 ~~Associate--Justices-of-the-Supreme-Court-and-each-shall-continue-in~~
25 ~~office-as-such-Associate-Justice-of-the-Supreme-Court-until-January~~
26 ~~1st-next-preceding-the-expiration-of-the-term-to-which-he-has--been~~
27 ~~appointed--and-until-his-successor-shall-be-elected-and-qualified-]~~

1 SECTION 3. That Article V, Section 3, of the Texas
2 Constitution be amended to read as follows:

3 Sec. 3. The Supreme Court shall exercise the judicial power
4 of the state except as otherwise provided by this Constitution.
5 Its jurisdiction [~~have-appellate-jurisdiction-only-except-as-herein~~
6 ~~specified,--which~~] shall be co-extensive with the limits of the
7 State and its determinations shall be final. Its appellate
8 jurisdiction shall be final and extend to all cases except as
9 otherwise provided in this Constitution or by law under such rules
10 and regulations as are promulgated by the Court, provided that any
11 such rule or regulation may be overruled by express act of the
12 Legislature [~~questions-of-law-arising-in-cases-of-which-the-Courts~~
13 ~~of--Civil--Appeals---have---appellate---jurisdiction---under---such~~
14 ~~restrictions--and--regulations--as--the--Legislature-may-prescribe-~~
15 ~~Until-otherwise-provided-by-law-the-appellate-jurisdiction--of--the~~
16 ~~Supreme-Court-shall-extend-to-questions-of-law-arising-in-the-cases~~
17 ~~in--the-Courts-of-Civil-Appeals-in-which-the-Judges-of-any-Court-of~~
18 ~~Civil-Appeals-may-disagree,-or-where-the-several--Courts--of--Civil~~
19 ~~Appeals-may-held-differently-on-the-same-question-of-law-or-where-a~~
20 ~~statute--of--the--State--is--held-void~~]. The Supreme Court and the
21 Justices thereof shall have power to issue writs of habeas corpus,
22 as may be prescribed by law, and under such regulations as may be
23 prescribed by law, the said courts and the Justices thereof may
24 issue the writs of mandamus, procedendo, certiorari and such other
25 writs, as may be necessary to enforce its jurisdiction. The
26 Legislature may confer original jurisdiction on the Supreme Court
27 to issue writs of quo warranto and mandamus in such cases as may be

1 specified, except as against the Governor of the State.

2 The Supreme Court shall also have power, upon affidavit or
3 otherwise as by the court may be determined, to ascertain such
4 matters of fact as may be necessary to the proper exercise of its
5 jurisdiction.

6 The Supreme Court shall have the duty and authority to
7 provide for the efficient and just operation of the judicial
8 system.

9 The Supreme Court shall have the authority to prescribe rules
10 of civil procedure, but any rule of procedure expressly disapproved
11 by the Legislature shall have no effect thereafter.

12 The Supreme Court shall appoint a clerk, who shall give bond
13 in such manner as is now or may hereafter, be required by law, and
14 he may hold his office for four years and shall be subject to
15 removal by said court for good cause entered of record on the
16 minutes of said court who shall receive such compensation as the
17 Legislature may provide.

18 SECTION 4. That Article V, Section 6, of the Texas
19 Constitution be amended to read as follows:

20 Sec. 6. The Legislature shall [~~as-seen-as-practicable-after~~
21 ~~the-adoption-of-this-amendment~~] divide the State into such [~~not~~
22 ~~less--than-two-or-more-than-three~~] Supreme judicial districts [~~and~~
23 ~~thereafter-into-such-additional-districts~~] as the [~~increase--of~~]
24 population and business may require, and shall establish a Court of
25 [~~Civil~~] Appeals in each of said districts, which shall consist of a
26 Chief Justice and at least two Associate Justices, who shall have
27 the qualifications as herein prescribed for Justices of the Supreme

1 Court. The Court of [~~Civil~~] Appeals may sit in sections as
2 authorized by law. The concurrence of a majority of the judges
3 sitting in a section is necessary to decide a case. Said Court of
4 [~~Civil~~] Appeals shall have appellate jurisdiction co-extensive with
5 the limits of their respective districts, which shall extend to all
6 [~~civil~~] cases of which the District Courts or County Courts have
7 original or appellate jurisdiction, under such restrictions and
8 regulations as may be prescribed by law. Provided, that the
9 decision of said courts shall be conclusive on all questions of
10 fact brought before them on appeal or error. Said courts shall
11 have such other jurisdiction, original and appellate, as may be
12 prescribed by law.

13 Each of said Courts of [~~Civil~~] Appeals shall hold its
14 sessions at a place in its district to be designated by the
15 Legislature, and at such time as may be prescribed by law. Said
16 Justices shall be elected by the qualified voters of their
17 respective districts at a general election, for a term of six years
18 and shall receive for their services the sum [~~of three thousand~~
19 ~~five hundred dollars per annum, until otherwise~~] provided by law.
20 [~~Said courts shall have such other jurisdiction, original and~~
21 ~~appellate as may be prescribed by law.~~] Each Court of [~~Civil~~]
22 Appeals shall appoint a clerk in the same manner as the clerk of
23 the Supreme Court which clerk shall receive such compensation as
24 may be fixed by law.

25 [~~Until the organization of the Courts of Civil Appeals and~~
26 ~~Criminal Appeals, as herein provided for, the jurisdiction, power~~
27 ~~and organization and location of the Supreme Court, the Court of~~

1 Appeals-and-the-Commission-of-Appeals-shall-continue-as--they--were
2 before-the-adoption-of-this-amendment.

3 [All-civil-cases-which-may-be-pending-in-the-Court-of-Appeals
4 shall--as--soon-as-practicable-after-the-organization-of-the-Courts
5 of--Civil--Appeals--be--certified--to,--and--the--records---thereof
6 transmitted--to-the-proper-Courts-of-Civil-Appeals-to-be-decided-by
7 said-courts,--At-the-first-session-of-the-Supreme-Court--the--Court
8 of--Criminal--Appeals-and-such-of-the-Courts-of-Civil-Appeals-which
9 may-be--hereafter--created--under--this--article--after--the--first
10 election--of--the--Judges-of-such-courts-under-this-amendment,--The
11 terms-of-office-of-the-Judges-of-each-court-shall-be--divided--into
12 three-classes-and-the-Justices-thereof-shall-draw-for-the-different
13 classes,--Those-who-shall-draw-class-No.-1-shall-hold-their-offices
14 two--years,--those-drawing-class-No.-2-shall-hold-their-offices-for
15 four-years-and-those-who-may-draw-class--No.-3--shall--hold--their
16 offices--for--six--years,--from-the-date-of-their-election-and-until
17 their-successors-are-elected-and-qualified,--and-thereafter-each--of
18 the-said-Judges-shall-hold-his-office-for-six-years,--as-provided-in
19 this-Constitution.]

20 On the effective date of this amendment, the Justices of the
21 present Courts of Civil Appeals become the Justices of the Courts
22 of Appeals for the term of office to which elected or appointed as
23 Justices of the Courts of Civil Appeals, and the Supreme Judicial
24 Districts become the Supreme Judicial Districts for the Courts of
25 Appeals. All constitutional and statutory references to the Courts
26 of Civil Appeals shall be construed to mean the Courts of Appeals.

27 SECTION 5. That Article V, Section 16, of the Texas

1 Constitution be amended to read as follows:

2 Sec. 16. The County Court shall have original jurisdiction
3 of all misdemeanors of which exclusive original jurisdiction is not
4 given to the Justices Court as the same is now or may hereafter be
5 prescribed by law, and when the fine to be imposed shall exceed
6 \$200, and they shall have concurrent jurisdiction with the Justice
7 Court in all civil cases when the matter in controversy shall
8 exceed in value \$200, and not exceed \$500, exclusive of interest,
9 unless otherwise provided by law, and concurrent jurisdiction with
10 the District Court when the matter in controversy shall exceed
11 \$500, and not exceed \$1,000, exclusive of interest, but shall not
12 have jurisdiction of suits for the recovery of land. They shall
13 have appellate jurisdiction in cases civil and criminal of which
14 Justices Courts have original jurisdiction, but of such civil cases
15 only when the judgment of the court appealed from shall exceed \$20,
16 exclusive of cost, under such regulations as may be prescribed by
17 law. In all appeals from Justices Courts there shall be a trial de
18 novo in the County Court, and appeals may be prosecuted from the
19 final judgment rendered in such cases by the County Court, as well
20 as all cases civil and criminal of which the County Court has
21 exclusive or concurrent or original jurisdiction [~~of civil appeals~~
22 ~~in civil cases to the Court of Civil Appeals and in such criminal~~
23 ~~cases to the Court of Criminal Appeals, with such exceptions and~~
24 ~~under such regulations]~~ as may be prescribed by law.

25 The County Court shall have the general jurisdiction of a
26 Probate Court; they shall probate wills, appoint guardians of
27 minors, idiots, lunatics, persons non compos mentis and common

1 drunkards, grant letters testamentary and of administration, settle
2 accounts of executors, transact all business appertaining to
3 deceased persons, minors, idiots, lunatics, persons non compos
4 mentis and common drunkards, including the settlement, partition
5 and distribution of estates of deceased persons and to apprentice
6 minors, as provided by law; and the County Court, or judge thereof,
7 shall have power to issue writs of injunctions, mandamus and all
8 writs necessary to the enforcement of the jurisdiction of said
9 Court, and to issue writs of habeas corpus in cases where the
10 offense charged is within the jurisdiction of the County Court, or
11 any other Court or tribunal inferior to said Court. The County
12 Court shall not have criminal jurisdiction in any county where
13 there is a Criminal District Court, unless expressly conferred by
14 law, and in such counties appeals from Justices Courts and other
15 inferior courts and tribunals in criminal cases shall be to the
16 Criminal District Court, under such regulations as may be
17 prescribed by law; and in all such cases an appeal shall lie from
18 such District Court as may be prescribed by law [~~to--the--Court--of~~
19 ~~Criminal---Appeals~~]. When the judge of the County Court is
20 disqualified in any case pending in the County Court the parties
21 interested may, by consent, appoint a proper person to try said
22 case, or upon their failing to do so a competent person may be
23 appointed to try the same in the county where it is pending in such
24 manner as may be prescribed by law.

25 SECTION 6. This amendment becomes effective January 1, 1980.

26 SECTION 7. This proposed constitutional amendment shall be
27 submitted to the voters at an election to be held on November 6,

1 1979. The ballot shall be printed to provide for voting for or
2 against the proposition: "The constitutional amendment to change
3 the name of the Courts of Civil Appeals and the names and
4 qualifications of the justices of the Supreme Court, and to
5 prescribe the jurisdiction and authority of the appellate courts."

By: Farabee

S.J.R. No. 36

(In the Senate - Filed February 2, 1979; February 5, 1979, read first time and referred to Committee on Jurisprudence; March 28, 1979, reported adversely, with favorable Committee Substitute; March 28, 1979, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.J.R. NO. 36

By: Farabee

SENATE JOINT RESOLUTION

proposing a constitutional amendment to change the name of the Courts of Civil Appeals and the names and qualifications of the justices of the Supreme Court and to prescribe the jurisdiction and authority of the appellate courts.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article V, Section 1, of the Texas Constitution be amended to read as follows:

"Section 1. The judicial power of this State shall be vested in one Supreme Court, in one Court of Criminal Appeals, in Courts of ~~[Civil]~~ Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

"The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto."

SECTION 2. That Article V, Section 2, of the Texas Constitution be amended to read as follows:

"Section 2. The Supreme Court shall consist of the [a] Chief Justice and eight ~~[Associate]~~ Justices, any five of whom shall constitute a quorum, and the concurrence of five shall be necessary to a decision of a case; provided, that when the business of the court may require, the court may sit in sections as designated by the court to hear argument of causes and to consider applications for writs of error or other preliminary matters. No person shall be eligible to serve in the office of Chief Justice or ~~[Associate]~~ Justice of the Supreme Court unless the person is licensed to practice law in this state and is ~~[he-be]~~, at the time of ~~[his]~~ election, a citizen of the United States and of this state, and ~~has~~ ~~[unless-he-shall-have]~~ attained the age of thirty-five years, and ~~has~~ ~~[shall-have]~~ been a practicing lawyer, or a lawyer and judge of a court of record together at least ten years. Said Justices shall be elected (three of them each two years) by the qualified voters of the state at a general election; shall hold their offices six years, or until their successors are elected and qualified; and shall each receive such compensation as shall be provided by law. In case of a vacancy in the office of the Chief Justice or any Justice of the Supreme Court, the Governor shall fill the vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state. The Justices of the Supreme Court who may be in office at the time this amendment takes effect shall continue in office until the expiration of their term of office under the present Constitution, and until their successors are elected and qualified. ~~[The--Judges--of--the Commission-of-Appeals-who--may--be--in--office--at--the--time--this amendment--takes--effect--shall--become--Associate--Justices-of-the Supreme-Court-and-each-shall-continue-in-office-as--such--Associate Justice--of--the-Supreme-Court-until-January-1st-next-preceding-the expiration-of-the-term-to-which-he-has-been-appointed-and-until-his successor-shall-be-elected-and-qualified.]~~"

SECTION 3. That Article V, Section 3, of the Texas Constitution be amended to read as follows:

"Section 3. The Supreme Court shall exercise the judicial power of the state except as otherwise provided by this Constitution. Its jurisdiction ~~[have-appellate-jurisdiction-only except-as-herein-specified, which]~~ shall be co-extensive with the limits of the State and its determinations shall be final. Its appellate jurisdiction shall be final and extend to all cases except as otherwise provided in this Constitution or by law under

such rules and regulations as are promulgated by the Court, provided that any such rule or regulation may be overruled by express act of the Legislature [~~questions of law arising in cases of which the Courts of Civil Appeals have appellate jurisdiction under such restrictions and regulations as the Legislature may prescribe. Until otherwise provided by law the appellate jurisdiction of the Supreme Court shall extend to questions of law arising in the cases in the Courts of Civil Appeals in which the Judges of any Court of Civil Appeals may disagree, or where the several Courts of Civil Appeals may hold differently on the same question of law or where a statute of the State is held void.~~ The Supreme Court and the Justices thereof shall have power to issue writs of habeas corpus, as may be prescribed by law, and under such regulations as may be prescribed by law, the said courts and the Justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction. The Legislature may confer original jurisdiction on the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State.

"The Supreme Court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

Except as otherwise provided in this Constitution or by law, the Supreme Court shall have the duty and authority to provide for the efficient and just operation of the judicial system.

"The Supreme Court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter, be required by law, and he may hold his office for four years and shall be subject to removal by said court for good cause entered of record on the minutes of said court who shall receive such compensation as the Legislature may provide."

SECTION 4. That Article V, Section 5, of the Texas Constitution be amended to read as follows:

Section 5. The Court of Criminal Appeals shall exercise the judicial power of the state in criminal cases except as otherwise provided by this Constitution or by law [have appellate jurisdiction coextensive with the limits of the State in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law]. Its jurisdiction in criminal cases shall be coextensive with the limits of the State and its determinations shall be final in criminal cases as may be prescribed by law. Its appellate jurisdiction in criminal cases shall be final and extend to all criminal cases except as otherwise provided in this Constitution or by law.

"The appeal of all cases in which the death penalty has been assessed shall be to the Court of Criminal Appeals. The appeal of all other criminal cases shall be to the Courts of Appeals as prescribed by law. In addition, the Court of Criminal Appeals may on its own motion review a decision of a Court of Appeals in a criminal case as provided by law. Discretionary review by the Court of Criminal Appeals is not a matter of right, but of sound judicial discretion.

"Subject to such regulations as may be prescribed by law [regarding criminal law matters,] the Court of Criminal Appeals and the Judges thereof shall have the power to issue the writ [writs] of habeas corpus, and, in criminal law matters, the writs of mandamus, procedendo, prohibition, and certiorari. The Court and the Judges thereof shall have the power to issue [and] such other writs as may be necessary to protect its jurisdiction or enforce its judgments. The court shall have the power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

"The Court of Criminal Appeals may sit for the transaction of business at any time during the year and each term shall begin and end with each calendar year. The Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court

1 for good cause entered of record on the minutes of said court.

2 "The Clerk of the Court of Criminal Appeals who may be in
3 office at the time when this Amendment takes effect shall continue
4 in office for the term of his appointment."

5 SECTION 5. That Article V, Section 6, of the Texas
6 Constitution be amended to read as follows:

7 "Section 6. The Legislature shall [~~as--seen--as--practicable~~
8 ~~after--the--adoption--of--this--amendment~~] divide the State into such
9 [not--less--than--two--nor--more--than--three] Supreme judicial districts
10 [and--thereafter--into--such--additional--districts] as the [~~increase~~
11 ~~of~~] population and business may require, and shall establish a
12 Court of [~~Civil~~] Appeals in each of said districts, which shall
13 consist of a Chief Justice and at least two Associate Justices, who
14 shall have the qualifications as herein prescribed for Justices of
15 the Supreme Court. The Court of [~~Civil~~] Appeals may sit in
16 sections as authorized by law. The concurrence of a majority of
17 the judges sitting in a section is necessary to decide a case.
18 Said Court of [~~Civil~~] Appeals shall have appellate jurisdiction
19 co-extensive with the limits of their respective districts, which
20 shall extend to all [~~civil~~] cases of which the District Courts or
21 County Courts have original or appellate jurisdiction, under such
22 restrictions and regulations as may be prescribed by law.
23 Provided, that the decision of said courts shall be conclusive on
24 all questions of fact brought before them on appeal or error. Said
25 courts shall have such other jurisdiction, original and appellate,
26 as may be prescribed by law.

27 "Each of said Courts of [~~Civil~~] Appeals shall hold its
28 sessions at a place in its district to be designated by the
29 Legislature, and at such time as may be prescribed by law. Said
30 Justices shall be elected by the qualified voters of their
31 respective districts at a general election, for a term of six years
32 and shall receive for their services the sum [~~of--three--thousand~~
33 ~~five--hundred--dollars--per--annum--until--otherwise~~] provided by law.
34 [~~Said--courts--shall--have--such--other--jurisdiction--original--and~~
35 ~~appellate--as--may--be--prescribed--by--law.~~] Each Court of [~~Civil~~]
36 Appeals shall appoint a clerk in the same manner as the clerk of
37 the Supreme Court which clerk shall receive such compensation as
38 may be fixed by law.

39 "On the effective date of this amendment, the Justices of the
40 present Courts of Civil Appeals become the Justices of the Courts
41 of Appeals for the term of office to which elected or appointed as
42 Justices of the Courts of Civil Appeals, and the Supreme Judicial
43 Districts become the Supreme Judicial Districts for the Courts of
44 Appeals. All constitutional and statutory references to the Courts
45 of Civil Appeals shall be construed to mean the Courts of Appeals."

46 "[~~Until--the--organization--of--the--Courts--of--Civil--Appeals--and~~
47 ~~Criminal--Appeals--as--herein--provided--for--the--jurisdiction--power~~
48 ~~and--organization--and--location--of--the--Supreme--Court--the--Court--of~~
49 ~~Appeals--and--the--Commission--of--Appeals--shall--continue--as--they--were~~
50 ~~before--the--adoption--of--this--amendment.~~

51 "[~~All--civil--cases--which--may--be--pending--in--the--Court--of~~
52 ~~Appeals--shall--as--soon--as--practicable--after--the--organization--of--the~~
53 ~~Courts--of--Civil--Appeals--be--certified--to--and--the--records--thereof~~
54 ~~transmitted--to--the--proper--Courts--of--Civil--Appeals--to--be--decided--by~~
55 ~~said--courts--At--the--first--session--of--the--Supreme--Court--the--Court~~
56 ~~of--Criminal--Appeals--and--such--of--the--Courts--of--Civil--Appeals--which~~
57 ~~may--be--hereafter--created--under--this--article--after--the--first~~
58 ~~election--of--the--Judges--of--such--courts--under--this--amendment--The~~
59 ~~terms--of--office--of--the--Judges--of--each--court--shall--be--divided--into~~
60 ~~three--classes--and--the--Justices--thereof--shall--draw--for--the--different~~
61 ~~classes--Those--who--shall--draw--class--No--1--shall--hold--their--offices~~
62 ~~two--years--those--drawing--class--No--2--shall--hold--their--offices--for~~
63 ~~four--years--and--those--who--may--draw--class--No--3--shall--hold--their~~
64 ~~offices--for--six--years--from--the--date--of--their--election--and--until~~
65 ~~their--successors--are--elected--and--qualified--and--thereafter--each--of~~
66 ~~the--said--Judges--shall--hold--his--office--for--six--years--as--provided--in~~
67 ~~this--Constitution.]"~~

68 SECTION 6. That Article V, Section 16, of the Texas
69 Constitution be amended to read as follows:

70 "Section 16. The County Court shall have original

jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the Justices Court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200, and they shall have concurrent jurisdiction with the Justice Court in all civil cases when the matter in controversy shall exceed in value \$200, and not exceed \$500, exclusive of interest, unless otherwise provided by law, and concurrent jurisdiction with the District Court when the matter in controversy shall exceed \$500, and not exceed \$1,000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which Justice Courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed \$20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from Justices Courts there shall be a trial de novo in the County Court, and appeals may be prosecuted from the final judgment rendered in such cases by the County Court, as well as all cases civil and criminal of which the County Court has exclusive or concurrent or original jurisdiction [~~of--civil-appeals-in-civil-cases-to-the-Court-of-Civil-Appeals-and in-such-criminal-cases-to-the-Court-of-Criminal-Appeals,--with--such exceptions--and-under-such-regulations~~] as may be prescribed by law and this Constitution.

"The County Court shall have the general jurisdiction of a Probate Court; they shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law; and the County Court, or judge thereof, shall have power to issue writs of injunctions, mandamus and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the County Court, or any other Court or tribunal inferior to said Court. The County Court shall not have criminal jurisdiction in any county where there is a Criminal District Court, unless expressly conferred by law, and in such counties appeals from Justices Courts and other inferior courts and tribunals in criminal cases shall be to the Criminal District Court, under such regulations as may be prescribed by law; and in all such cases an appeal shall lie from such District Court as may be prescribed by law and this Constitution [~~to-the-Court-of-Criminal-Appeals~~]. When the judge of the County Court is disqualified in any case pending in the County Court the parties interested may, by consent, appoint a proper person to try said case, or upon their failing to do so a competent person may be appointed to try the same in the county where it is pending in such manner as may be prescribed by law."

SECTION 7. This amendment becomes effective January 1, 1980.

SECTION 8. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 6, 1979. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to change the name of the Courts of Civil Appeals and the names and qualifications of the justices of the Supreme Court and to prescribe the jurisdiction and authority of the appellate courts."

* * * * *

Austin, Texas
March 28, 1979

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Jurisprudence, to which was referred S.J.R. No. 36, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

Farabee, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 3, 1979

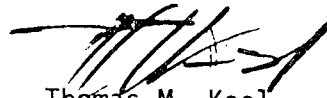
Honorable Ray Farabee, Chairman
Committee on Jurisprudence
Senate Chamber
Austin, Texas

In Re: Committee Substitute for
Senate Joint Resolution No. 36

Sir:

In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Committee Substitute for Senate Joint Resolution No. 36 (proposing a constitutional amendment to change the name of the Courts of Civil Appeals and the names and qualifications of the justices of the Supreme Court, and to prescribe the jurisdiction and authority of the appellate courts) to be as follows:

No fiscal implication or additional cost to the State or units of local government attributable to the Resolution, should it be adopted, as substituted, is anticipated except for the costs of publication prior to election estimated at \$96,243 in 1980.



Thomas M. Keel
Director

Source: Office of the Secretary of State; LBB Staff

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 16, 1979

Honorable Ray Farabee, Chairman
Committee on Jurisprudence
Senate Chamber
Austin, Texas

In Re: Senate Joint Resolution No. 36
By: Farabee

Sir:

In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Senate Joint Resolution No. 36 (proposing a constitutional amendment to change the name of the Courts of Civil Appeals and the names and qualifications of the justices of the Supreme Court, and to prescribe the jurisdiction and authority of the appellate courts), to be as follows:

No fiscal implication or additional cost to the State or units of local government attributable to the Resolution, should it be adopted, is anticipated except for the costs of publication prior to election estimated at \$96,243 in 1980.



Thomas M. Keel
Director

Source: Office of the Secretary of State; LBB Staff

By Farabee

S.J.R. No. 36

Substitute the following for S.J.R. No. 36

BY _____

C.S.S.J.R. No. 36

~~SENATE~~ JOINT RESOLUTION

proposing a constitutional amendment to change the name of the Courts of Civil Appeals and the names and qualifications of the justices of the Supreme Court and to prescribe the jurisdiction and authority of the appellate courts.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article V, Section 1, of the Texas Constitution be amended to read as follows:

Sec. 1. The judicial power of this State shall be vested in one Supreme Court, in one Court of Criminal Appeals, in Courts of ~~Civil~~ Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto.

SECTION 2. That Article V, Section 2, of the Texas Constitution be amended to read as follows:

Sec. 2. The Supreme Court shall consist of the ~~the~~ Chief Justice and eight ~~Associate~~ Justices, any five of whom shall constitute a quorum, and the concurrence of five shall be necessary to a decision of a case; provided, that when the business of the court may require, the court may sit in sections as designated by the court to hear argument of causes and to consider applications for writs of error or other preliminary matters. No person shall be eligible to serve in the office of Chief Justice or ~~Associate~~ Justice of the Supreme Court unless the person is licensed to practice law in this state and is ~~he-be~~, at the time of ~~his~~ election, a citizen of the United States and of this state, and has ~~unless-he-shall~~

attained the age of thirty-five years, and have
have been a practicing lawyer, or a lawyer and judge of a court of record together at least ten years. Said Justices shall be elected (three of them each two years) by the qualified voters of the state at a general election; shall hold their offices six years, or until their successors are elected and qualified; and shall each receive such compensation as shall be provided by law. In case of a vacancy in the office of the Chief Justice or any Justice of the Supreme Court, the Governor shall fill the vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state. The Justices of the Supreme Court who may be in office at the time this amendment takes effect shall continue in office until the expiration of their term of office under the present Constitution, and until their successors are elected and qualified. ~~(The Judges of the Commission of Appeals who may be in office at the time this amendment takes effect shall become Associate Justices of the Supreme Court and each shall continue in office as such Associate Justice of the Supreme Court until January 1st next preceding the expiration of the term to which he has been appointed and until his successor shall be elected and qualified.)~~

In case of a vacancy
SECTION 3. That Article V, Section 3, of the Texas Constitution be amended to read as follows: ^{2/3}

Sec. 3
"Sec. 3. The Supreme Court shall exercise the judicial power of the state except as otherwise provided by this Constitution. Its jurisdiction ~~(have appellate jurisdiction only except as herein specified, which)~~ shall be co-extensive with the limits of the State and its determinations shall be final. Its appellate jurisdiction shall be final and extend to all cases except as otherwise provided in this Constitution or by law under such rules and regulations as are promulgated by the Court, provided that any such rule or regulation may be overruled by express act of the Legislature ~~(questions of law arising in cases of which the Courts of Civil Appeals have appellate jurisdiction under such~~

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~~restrictions and regulations as the Legislature may prescribe,--Until otherwise provided by law the appellate jurisdiction of the Supreme Court shall extend to questions of law arising in the cases in the Courts of Civil Appeals in which the Judges of any Court of Civil Appeals may disagree, or where the several Courts of Civil Appeals may hold differently on the same question of law or where a statute of the State is held void~~. The Supreme Court and the Justices thereof shall have power to issue writs of habeas corpus, as may be prescribed by law, and under such regulations as may be prescribed by law, the said courts and the Justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction. The Legislature may confer original jurisdiction on the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State. ^{3/10}

"The Supreme Court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

Except as otherwise provided in this Constitution or by law, the Supreme Court shall have the duty and authority to provide for the efficient and just operation of the judicial system.

"The Supreme Court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter, be required by law, and he may hold his office for four years and shall be subject to removal by said court for good cause entered of record on the minutes of said court who shall receive such compensation as the Legislature may provide.

Proposed Amendment on the Court
SECTION 4. That Article V, Section 5, of the Texas Constitution be amended to read as follows:

"^{from} Sec. 5. The Court of Criminal Appeals shall exercise the judicial power of the state in criminal cases except as otherwise provided by this Constitution or by law ~~(have appellate jurisdiction co~~ extensive with the limits of the state in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law]. Its jurisdiction in criminal cases shall be co extensive with the limits of the State and its determinations shall be final in criminal cases as may be prescribed by law. Its appellate jurisdiction in criminal cases shall be final and extend to all criminal cases except as otherwise provided in this Constitution or by law.

" The appeal of all cases in which the death penalty has been assessed shall be to the Court of Criminal Appeals. The appeal of all other criminal cases shall be to the Courts of Appeals as prescribed by law. In addition, the Court of Criminal Appeals may, on its own motion, review a decision of a Court of Appeals in a criminal case as provided by law. Discretionary review by the Court of Criminal Appeals is not a matter of right, but of sound judicial discretion.

" Subject to such regulations as may be prescribed by law, (regarding-criminal law-matters) the Court of Criminal Appeals and the Judges thereof shall have the power to issue the writ (writs) of habeas corpus, and, in criminal law matters, the writs of mandamus, procedendo, prohibition, and certiorari. The Court and the Judges thereof shall have the power to issue (and) such other writs as may be necessary to protect its jurisdiction or enforce its judgments. The court shall have the power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

11 The Court of Criminal Appeals may sit for the transaction of
12 business at any time during the year and each term shall begin and
13 end with each calendar year. The Court of Criminal Appeals shall
14 appoint a clerk of the court who shall give bond in such manner as
15 is now or may hereafter be required by law, and who shall hold his
16 office for a term of four years unless sooner removed by the court^{2/3}
17 for good cause entered of record on the minutes of said court.

18 The Clerk of the Court of Criminal Appeals who may be in
19 office at the time when this Amendment takes effect shall continue
20 in office for the term of his appointment. ^{5/6}

21 SECTION 5. That Article V, Section 6, of the Texas Constitution
22 be amended to read as follows:

23 ¹¹ Sec^{tion} 6. The Legislature shall ~~[as soon as practicable after~~
24 ~~the adoption of this amendment]~~ divide the State into such ~~[not~~
25 ~~less than two nor more than three]~~ Supreme judicial districts ~~[and~~
26 ~~thereafter into such additional districts]~~ as the ~~[interest of]~~
27 population and business may require, and shall establish a Court of
28 ~~[Civil]~~ Appeals in each of said districts, which shall consist of a
29 Chief Justice and at least two Associate Justices, who^{3/6} shall have
30 the qualifications as herein prescribed for Justices of the Supreme
31 Court. The Court of ~~[Civil]~~ Appeals may sit in sections as authorized
32 by law. The concurrence of a majority of the judges sitting in a
33 section is necessary to decide a case. Said Court of ~~[Civil]~~ Appeals
34 shall have appellate jurisdiction co-extensive with the limits of

1 their respective districts, which shall extend to all [civil]
2 cases of which the District Courts or County Courts have original
3 or appellate jurisdiction, under such restrictions and regulations
4 as may be prescribed by law. Provided, that the decision of said
5 courts shall be conclusive on all questions of fact brought before
6 them on appeal or error. Said courts shall have such other juris-
7 diction, original and appellate, as may be prescribed by law.

8 ^u Each of said Courts of [Civil] Appeals shall hold its sessions
9 at a place in its district to be designated by the Legislature,
10 and at such time as may be prescribed by law. Said Justices shall
11 be elected by the qualified voters of their respective districts
12 at a general election, for a term of six years and shall receive
13 for their services the sum [~~of three thousand five hundred dollars~~
14 ~~per annum, until otherwise~~] provided by law. [~~Said courts shall~~
15 ~~have such other jurisdiction, original and appellate as may be~~
16 ~~prescribed by law~~] Each Court of [Civil] Appeals shall appoint a
17 clerk in the same manner as the clerk of the Supreme Court which
18 clerk shall receive such compensation as may be fixed by law.

19 ^{> Amend. Lines 6-12 of P. 7 here.}
20 ^u [~~Until the organization of the Courts of Civil Appeals and~~
21 ~~Criminal Appeals, as herein provided for, the jurisdiction, power~~
22 ~~and organization and location of the Supreme Court, the Court of~~
23 ~~Appeals and the Commission of Appeals shall continue as they were~~
24 ~~before the adoption of this amendment.~~

25 ^u [~~All civil cases which may be pending in the Court of Criminal~~
26 ~~Appeals shall as soon as practicable after the organization of the~~
27 ~~Courts of Civil Appeals be certified to, and the records thereof~~
28 ~~transmitted to the proper Courts of Civil Appeals to be decided by~~
29 ~~said courts. At the first session of the Supreme Court the Court~~
30 ~~of Criminal Appeals and such of the Courts of Civil Appeals which~~
31 ~~may be hereafter created under this article after the first election~~
32 ~~of the Judges of such courts under this amendment. The terms of~~
33 ~~office of the Judges of each court shall be divided into three~~
34 ~~classes. Those who shall draw class No. 1 shall hold their offices~~
35 ~~two years, those drawing class No. 2 shall hold their offices for~~

and the Justices thereof shall draw for the
different classes.

1 four-years-and-these-who-may-draw-class-No-3-shall-hold-their
 2 offices-for-six-years,-from-the-date-of-their-election-and-until
 3 their-successors-are-elected-and-qualified,-and-thereafter-each
 4 of-the-said-Judges-shall-hold-his-office-for-six-years,-as
 5 provided-in-this-Constitution.] 7/18

6 On the effective date of this amendment, the Justices of the
 7 present Courts of Civil Appeals become the Justices of the Courts
 8 of Appeals for the term of office to which elected or appointed as
 9 Justices of the Courts of Civil Appeals, and the Supreme Judicial
 10 Districts become the Supreme Judicial Districts for the Courts of
 11 Appeals. All constitutional and statutory references to the Courts
 12 of Civil Appeals shall be construed to mean the Courts of Appeals.

13 SECTION 6. That Article V, Section 16, of the Texas Constitu-
 14 tion be amended to read as follows:

15 Sec. 16. The County Court shall have original jurisdiction
 16 of all misdemeanors of which exclusive original jurisdiction is not
 17 given to the Justices Court as the same is now or may hereafter be
 18 prescribed by law, and when the fine to be imposed shall exceed
 19 \$200, and they shall have concurrent jurisdiction with the Justice
 20 Court in all civil cases when the matter in controversy shall
 21 exceed in value \$200, and not exceed \$500, exclusive of interest,
 22 unless otherwise provided by law, and concurrent jurisdiction with
 23 the District Court when the matter in controversy shall exceed
 24 \$500, and not exceed \$1,000, exclusive of interest, but shall not
 25 have jurisdiction of suits for the recovery of land. They shall
 26 have appellate jurisdiction in cases civil and criminal of which
 27 Justices Courts have original jurisdiction, but of such civil cases
 28 only when the judgment of the court appealed from shall exceed \$20,
 29 exclusive of cost, under such regulations as may be prescribed by
 30 law. In all appeals from Justices Courts there shall be a trial
 31 de novo in the County Court, and appeals may be prosecuted from
 32 the final judgment rendered in such cases by the County Court, as
 33 well as all cases civil and criminal of which the County Court has
 34 exclusive or concurrent or original jurisdiction [of-civil-appeals]

1 in-civil-cases-to-the-Court-of-Civil-Appeals-and-in-such-eximinal
2 cases-to-the-Court-of-Criminal-Appeals,-with-such-exceptions-and
3 under-such-regulations] as may be prescribed by law and this
4 Constitution.

5 ¶The County Court shall have the general jurisdiction of a
6 Probate Court; they shall probate wills, appoint guardians of
7 minors, idiots, lunatics, persons non compos mentis and common
8 drunkards, grant letters testamentary and of administration, settle
9 accounts of executors, transact all business appertaining to deceased
10 persons, minors, idiots, lunatics, persons non compos mentis and
11 common drunkards, including the settlement, partition and distri-
12 bution of estates of deceased persons and to apprentice minors, as
13 provided by law; and the County Court, or judge thereof, shall have
14 power to issue writs of injunctions, mandamus and all writs necessary
15 to the enforcement of the jurisdiction of said Court, and to issue
16 writs of habeas corpus in cases where the offense charged is within
17 the jurisdiction of the County Court, or any other Court or tribunal
18 inferior to said Court. The County Court shall not have criminal
19 jurisdiction in any county where there is a Criminal District Court,
20 unless expressly conferred by law, and in such counties appeals
21 from Justices Courts and other inferior courts and tribunals in
22 criminal cases shall be to the Criminal District Court, under such
23 regulations as may be prescribed by law; and in all such cases an
24 appeal shall lie from such District Court as may be prescribed by
25 law and this Constitution [~~to-the-Court-of-Criminal-Appeals~~]. When
26 the judge of the County Court is disqualified in any case pending
27 in the County Court the parties interested may, by consent, appoint
28 a proper person to try said case, or upon their failing to do so a
29 competent person may be appointed to try the same in the county
30 where it is pending in such manner as may be prescribed by law.

31 SECTION 7. This amendment becomes effective January 1, 1980.

32 SECTION 8. This proposed constitutional amendment shall be
33 submitted to the voters at an election to be held on November 4, 1980.

34 ~~1979~~. The ballot shall be printed to provide for voting for or

1 against the proposition: "The constitutional amendment to change
2 the name of the Courts of Civil Appeals and the names and quali-
3 fications of the justices of the Supreme Court, and to prescribe
4 the jurisdiction and authority of the appellate courts."

I certify that the attached is a true and correct
copy of SJR*36, which was
received from the Senate on 4-3-79 and
referred to the Committee on Constitutional Amendments

Becky Messing
Chief Clerk of the House

April 2 19 79 Engrossed
Latsy Spaw
Engrossing Clerk

By: Farabee, Ogg
(Grant)

S.J.R. No. 36

SENATE JOINT RESOLUTION

proposing a constitutional amendment to change the name of the
Courts of Civil Appeals and the names and qualifications of the
justices of the Supreme Court and to prescribe the jurisdiction and
authority of the appellate courts.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article V, Section 1, of the Texas
Constitution be amended to read as follows:

"Section 1. The judicial power of this State shall be vested
in one Supreme Court, in one Court of Criminal Appeals, in Courts
of ~~Civil~~ Appeals, in District Courts, in County Courts, in
Commissioners Courts, in Courts of Justices of the Peace, and in
such other courts as may be provided by law.

"The Legislature may establish such other courts as it may
deem necessary and prescribe the jurisdiction and organization
thereof, and may conform the jurisdiction of the district and other
inferior courts thereto."

SECTION 2. That Article V, Section 2, of the Texas
Constitution be amended to read as follows:

"Section 2. The Supreme Court shall consist of ~~the~~ the Chief
Justice and eight ~~Associate~~ Justices, any five of whom shall
constitute a quorum, and the concurrence of five shall be necessary
to a decision of a case; provided, that when the business of the
court may require, the court may sit in sections as designated by
the court to hear argument of causes and to consider applications
for writs of error or other preliminary matters. No person shall
be eligible to serve in the office of Chief Justice or ~~Associate~~

1 Justice of the Supreme Court unless the person is licensed to
2 practice law in this state and is ~~[he be]~~, at the time of ~~[his]~~
3 election, a citizen of the United States and of this state, and has
4 ~~[unless he shall have]~~ attained the age of thirty-five years, and
5 has ~~[shall have]~~ been a practicing lawyer, or a lawyer and judge of
6 a court of record together at least ten years. Said Justices shall
7 be elected (three of them each two years) by the qualified voters
8 of the state at a general election; shall hold their offices six
9 years, or until their successors are elected and qualified; and
10 shall each receive such compensation as shall be provided by law.
11 In case of a vacancy in the office of the Chief Justice or any
12 Justice of the Supreme Court, the Governor shall fill the vacancy
13 until the next general election for state officers, and at such
14 general election the vacancy for the unexpired term shall be filled
15 by election by the qualified voters of the state. The Justices of
16 the Supreme Court who may be in office at the time this amendment
17 takes effect shall continue in office until the expiration of their
18 term of office under the present Constitution, and until their
19 successors are elected and qualified. ~~[The Judges of the~~
20 ~~Commission of Appeals who may be in office at the time this~~
21 ~~amendment takes effect shall become Associate Justices of the~~
22 ~~Supreme Court and each shall continue in office as such Associate~~
23 ~~Justice of the Supreme Court until January 1st next preceding the~~
24 ~~expiration of the term to which he has been appointed and until his~~
25 ~~successor shall be elected and qualified.]"~~

26 SECTION 3. That Article V, Section 3, of the Texas
27 Constitution be amended to read as follows:

1 "Section 3. The Supreme Court shall exercise the judicial
2 power of the state except as otherwise provided by this
3 Constitution. Its jurisdiction ~~[have appellate jurisdiction only~~
4 ~~except as herein specified, which]~~ shall be co-extensive with the
5 limits of the State and its determinations shall be final. Its
6 appellate jurisdiction shall be final and extend to all cases
7 except as otherwise provided in this Constitution or by law under
8 such rules and regulations as are promulgated by the Court,
9 provided that any such rule or regulation may be overruled by
10 express act of the Legislature ~~[questions of law arising in cases~~
11 ~~of which the Courts of Civil Appeals have appellate jurisdiction~~
12 ~~under such restrictions and regulations as the Legislature may~~
13 ~~prescribe. Until otherwise provided by law the appellate~~
14 ~~jurisdiction of the Supreme Court shall extend to questions of law~~
15 ~~arising in the cases in the Courts of Civil Appeals in which the~~
16 ~~judges of any Court of Civil Appeals may disagree, or where the~~
17 ~~several Courts of Civil Appeals may hold differently on the same~~
18 ~~question of law or where a statute of the State is held void].~~ The
19 Supreme Court and the Justices thereof shall have power to issue
20 writs of habeas corpus, as may be prescribed by law, and under such
21 regulations as may be prescribed by law, the said courts and the
22 Justices thereof may issue the writs of mandamus, procedendo,
23 certiorari and such other writs, as may be necessary to enforce its
24 jurisdiction. The Legislature may confer original jurisdiction on
25 the Supreme Court to issue writs of quo warranto and mandamus in
26 such cases as may be specified, except as against the Governor of
27 the State.

1 "The Supreme Court shall also have power, upon affidavit or
2 otherwise as by the court may be determined, to ascertain such
3 matters of fact as may be necessary to the proper exercise of its
4 jurisdiction.

5 Except as otherwise provided in this Constitution or by law,
6 the Supreme Court shall have the duty and authority to provide for
7 the efficient and just operation of the judicial system.

8 "The Supreme Court shall appoint a clerk, who shall give bond
9 in such manner as is now or may hereafter, be required by law, and
10 he may hold his office for four years and shall be subject to
11 removal by said court for good cause entered of record on the
12 minutes of said court who shall receive such compensation as the
13 Legislature may provide."

14 SECTION 4. That Article V, Section 5, of the Texas
15 Constitution be amended to read as follows:

16 Section 5. The Court of Criminal Appeals shall exercise the
17 judicial power of the state in criminal cases except as otherwise
18 provided by this Constitution or by law ~~[have appellate~~
19 ~~jurisdiction coextensive with the limits of the state in all~~
20 ~~criminal cases of whatever grade, with such exceptions and under~~
21 ~~such regulations as may be prescribed by law]~~. Its jurisdiction in
22 criminal cases shall be coextensive with the limits of the State
23 and its determinations shall be final in criminal cases as may be
24 prescribed by law. Its appellate jurisdiction in criminal cases
25 shall be final and extend to all criminal cases except as otherwise
26 provided in this Constitution or by law.

27 "The appeal of all cases in which the death penalty has been

1 assessed shall be to the Court of Criminal Appeals. The appeal of
 2 all other criminal cases shall be to the Courts of Appeals as
 3 prescribed by law. In addition, the Court of Criminal Appeals may
 4 on its own motion review a decision of a Court of Appeals in a
 5 criminal case as provided by law. Discretionary review by the
 6 Court of Criminal Appeals is not a matter of right, but of sound
 7 judicial discretion.

8 "Subject to such regulations as may be prescribed by law
 9 [~~regarding criminal law matters,~~] the Court of Criminal Appeals and
 10 the Judges thereof shall have the power to issue the writ [~~writes~~]
 11 of habeas corpus, and, in criminal law matters, the writs of
 12 mandamus, procedendo, prohibition, and certiorari. The Court and
 13 the Judges thereof shall have the power to issue, ~~and~~ such other
 14 writs as may be necessary to protect its jurisdiction or enforce
 15 its judgments. The court shall have the power upon affidavit or
 16 otherwise to ascertain such matters of fact as may be necessary to
 17 the exercise of its jurisdiction.

18 "The Court of Criminal Appeals may sit for the transaction of
 19 business at any time during the year and each term shall begin and
 20 end with each calendar year. The Court of Criminal Appeals shall
 21 appoint a clerk of the court who shall give bond in such manner as
 22 is now or may hereafter be required by law, and who shall hold his
 23 office for a term of four years unless sooner removed by the court
 24 for good cause entered of record on the minutes of said court.

25 "The Clerk of the Court of Criminal Appeals who may be in
 26 office at the time when this Amendment takes effect shall continue
 27 in office for the term of his appointment."

1 SECTION 5. That Article V, Section 6, of the Texas
2 Constitution be amended to read as follows:

3 "Section 6. The Legislature shall ~~[as soon as practicable~~
4 ~~after the adoption of this amendment]~~ divide the State into such
5 ~~[not less than two nor more than three]~~ Supreme judicial districts
6 ~~[and thereafter into such additional districts]~~ as the ~~[increase~~
7 ~~of]~~ population and business may require, and shall establish a
8 Court of ~~[Civil]~~ Appeals in each of said districts, which shall
9 consist of a Chief Justice and at least two Associate Justices, who
10 shall have the qualifications as herein prescribed for Justices of
11 the Supreme Court. The Court of ~~[Civil]~~ Appeals may sit in
12 sections as authorized by law. The concurrence of a majority of
13 the judges sitting in a section is necessary to decide a case.
14 Said Court of ~~[Civil]~~ Appeals shall have appellate jurisdiction
15 co-extensive with the limits of their respective districts, which
16 shall extend to all ~~[civil]~~ cases of which the District Courts or
17 County Courts have original or appellate jurisdiction, under such
18 restrictions and regulations as may be prescribed by law.
19 Provided, that the decision of said courts shall be conclusive on
20 all questions of fact brought before them on appeal or error. Said
21 courts shall have such other jurisdiction, original and appellate,
22 as may be prescribed by law.

23 "Each of said Courts of ~~[Civil]~~ Appeals shall hold its
24 sessions at a place in its district to be designated by the
25 Legislature, and at such time as may be prescribed by law. Said
26 Justices shall be elected by the qualified voters of their
27 respective districts at a general election, for a term of six years

1 and shall receive for their services the sum [~~of three thousand~~
2 ~~five hundred dollars per annum, until otherwise~~] provided by law.
3 [~~Said courts shall have such other jurisdiction, original and~~
4 ~~appellate as may be prescribed by law.~~] Each Court of [~~Civil~~]
5 Appeals shall appoint a clerk in the same manner as the clerk of
6 the Supreme Court which clerk shall receive such compensation as
7 may be fixed by law.

8 "On the effective date of this amendment, the Justices of the
9 present Courts of Civil Appeals become the Justices of the Courts
10 of Appeals for the term of office to which elected or appointed as
11 Justices of the Courts of Civil Appeals, and the Supreme Judicial
12 Districts become the Supreme Judicial Districts for the Courts of
13 Appeals. All constitutional and statutory references to the Courts
14 of Civil Appeals shall be construed to mean the Courts of Appeals.

15 ~~"[Until the organization of the Courts of Civil Appeals and~~
16 ~~Criminal Appeals, as herein provided for, the jurisdiction, power~~
17 ~~and organization and location of the Supreme Court, the Court of~~
18 ~~Appeals and the Commission of Appeals shall continue as they were~~
19 ~~before the adoption of this amendment.~~

20 ~~"[All civil cases which may be pending in the Court of~~
21 ~~Appeals shall as soon as practicable after the organization of the~~
22 ~~Courts of Civil Appeals be certified to, and the records thereof~~
23 ~~transmitted to the proper Courts of Civil Appeals to be decided by~~
24 ~~said courts. At the first session of the Supreme Court the Court~~
25 ~~of Criminal Appeals and such of the Courts of Civil Appeals which~~
26 ~~may be hereafter created under this article after the first~~
27 ~~election of the Judges of such courts under this amendment. The~~

~~terms of office of the Judges of each court shall be divided into three classes and the Justices thereof shall draw for the different classes. Those who shall draw class No. 1 shall hold their offices two years, those drawing class No. 2 shall hold their offices for four years and those who may draw class No. 3 shall hold their offices for six years, from the date of their election and until their successors are elected and qualified, and thereafter each of the said Judges shall hold his office for six years, as provided in this Constitution.]"~~

SECTION 6. That Article V, Section 16, of the Texas Constitution be amended to read as follows:

"Section 16. The County Court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the Justices Court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200, and they shall have concurrent jurisdiction with the Justice Court in all civil cases when the matter in controversy shall exceed in value \$200, and not exceed \$500, exclusive of interest, unless otherwise provided by law, and concurrent jurisdiction with the District Court when the matter in controversy shall exceed \$500, and not exceed \$1,000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which Justices Courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed \$20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from Justices Courts

1 there shall be a trial de novo in the County Court, and appeals may
 2 be prosecuted from the final judgment rendered in such cases by the
 3 County Court, as well as all cases civil and criminal of which the
 4 County Court has exclusive or concurrent or original jurisdiction
 5 ~~[of civil appeals in civil cases to the Court of Civil Appeals and~~
 6 ~~in such criminal cases to the Court of Criminal Appeals, with such~~
 7 ~~exceptions and under such regulations]~~ as may be prescribed by law
 8 and this Constitution.

9 "The County Court shall have the general jurisdiction of a
 10 Probate Court; they shall probate wills, appoint guardians of
 11 minors, idiots, lunatics, persons non compos mentis and common
 12 drunkards, grant letters testamentary and of administration, settle
 13 accounts of executors, transact all business appertaining to
 14 deceased persons, minors, idiots, lunatics, persons non compos
 15 mentis and common drunkards, including the settlement, partition
 16 and distribution of estates of deceased persons and to apprentice
 17 minors, as provided by law; and the County Court, or judge thereof,
 18 shall have power to issue writs of injunctions, mandamus and all
 19 writs necessary to the enforcement of the jurisdiction of said
 20 Court, and to issue writs of habeas corpus in cases where the
 21 offense charged is within the jurisdiction of the County Court, or
 22 any other Court or tribunal inferior to said Court. The County
 23 Court shall not have criminal jurisdiction in any county where
 24 there is a Criminal District Court, unless expressly conferred by
 25 law, and in such counties appeals from Justices Courts and other
 26 inferior courts and tribunals in criminal cases shall be to the
 27 Criminal District Court, under such regulations as may be

1 prescribed by law; and in all such cases an appeal shall lie from
2 such District Court as may be prescribed by law and this
3 Constitution [~~to the Court of Criminal Appeals~~]. When the judge of
4 the County Court is disqualified in any case pending in the County
5 Court the parties interested may, by consent, appoint a proper
6 person to try said case, or upon their failing to do so a competent
7 person may be appointed to try the same in the county where it is
8 pending in such manner as may be prescribed by law."

9 SECTION 7. This amendment becomes effective January 1, 1980.

10 SECTION 8. This proposed constitutional amendment shall be
11 submitted to the voters at an election to be held on November 4,
12 1980. The ballot shall be printed to provide for voting for or
13 against the proposition: "The constitutional amendment to change
14 the name of the Courts of Civil Appeals and the names and
15 qualifications of the justices of the Supreme Court and to
16 prescribe the jurisdiction and authority of the appellate courts."

HOUSE COMMITTEE REPORT

1st. Printing

F

By: Farabee, Ogg
(Grant)

S.J.R. No. 36

SENATE JOINT RESOLUTION

proposing a constitutional amendment to change the name of the Courts of Civil Appeals and the names and qualifications of the justices of the Supreme Court and to prescribe the jurisdiction and authority of the appellate courts.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article V, Section 1, of the Texas Constitution be amended to read as follows:

"Section 1. The judicial power of this State shall be vested in one Supreme Court, in one Court of Criminal Appeals, in Courts of ~~Civil~~ Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

"The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto."

SECTION 2. That Article V, Section 2, of the Texas Constitution be amended to read as follows:

"Section 2. The Supreme Court shall consist of ~~the~~ ^{the} Chief Justice and eight ~~Associate~~ Justices, any five of whom shall constitute a quorum, and the concurrence of five shall be necessary to a decision of a case; provided, that when the business of the court may require, the court may sit in sections as designated by the court to hear argument of causes and to consider applications for writs of error or other preliminary matters. No person shall be eligible to serve in the office of Chief Justice or ~~Associate~~

1 Justice of the Supreme Court unless the person is licensed to
2 practice law in this state and is ~~he be~~, at the time of ~~his~~
3 election, a citizen of the United States and of this state, and has
4 ~~[unless he shall have]~~ attained the age of thirty-five years, and
5 has ~~[shall have]~~ been a practicing lawyer, or a lawyer and judge of
6 a court of record together at least ten years. Said Justices shall
7 be elected (three of them each two years) by the qualified voters
8 of the state at a general election; shall hold their offices six
9 years, or until their successors are elected and qualified; and
10 shall each receive such compensation as shall be provided by law.
11 In case of a vacancy in the office of the Chief Justice or any
12 Justice of the Supreme Court, the Governor shall fill the vacancy
13 until the next general election for state officers, and at such
14 general election the vacancy for the unexpired term shall be filled
15 by election by the qualified voters of the state. The Justices of
16 the Supreme Court who may be in office at the time this amendment
17 takes effect shall continue in office until the expiration of their
18 term of office under the present Constitution, and until their
19 successors are elected and qualified. ~~[The Judges of the~~
20 ~~Commission of Appeals who may be in office at the time this~~
21 ~~amendment takes effect shall become Associate Justices of the~~
22 ~~Supreme Court and each shall continue in office as such Associate~~
23 ~~Justice of the Supreme Court until January 1st next preceeding the~~
24 ~~expiration of the term to which he has been appointed and until his~~
25 ~~successor shall be elected and qualified.]"~~

26 SECTION 3. That Article V, Section 3, of the Texas
27 Constitution be amended to read as follows:

1 "Section 3. The Supreme Court shall exercise the judicial
2 power of the state except as otherwise provided by this
3 Constitution. Its jurisdiction ~~[have appellate jurisdiction only~~
4 ~~except as herein specified, which]~~ shall be co-extensive with the
5 limits of the State and its determinations shall be final. Its
6 appellate jurisdiction shall be final and extend to all cases
7 except as otherwise provided in this Constitution or by law under
8 such rules and regulations as are promulgated by the Court,
9 provided that any such rule or regulation may be overruled by
10 express act of the Legislature ~~[questions of law arising in cases~~
11 ~~of which the Courts of Civil Appeals have appellate jurisdiction~~
12 ~~under such restrictions and regulations as the Legislature may~~
13 ~~prescribe. Until otherwise provided by law the appellate~~
14 ~~jurisdiction of the Supreme Court shall extend to questions of law~~
15 ~~arising in the cases in the Courts of Civil Appeals in which the~~
16 ~~judges of any Court of Civil Appeals may disagree, or where the~~
17 ~~several Courts of Civil Appeals may hold differently on the same~~
18 ~~question of law or where a statute of the State is held void].~~ The
19 Supreme Court and the Justices thereof shall have power to issue
20 writs of habeas corpus, as may be prescribed by law, and under such
21 regulations as may be prescribed by law, the said courts and the
22 Justices thereof may issue the writs of mandamus, procedendo,
23 certiorari and such other writs, as may be necessary to enforce its
24 jurisdiction. The Legislature may confer original jurisdiction on
25 the Supreme Court to issue writs of quo warranto and mandamus in
26 such cases as may be specified, except as against the Governor of
27 the State.

1 "The Supreme Court shall also have power, upon affidavit or
2 otherwise as by the court may be determined, to ascertain such
3 matters of fact as may be necessary to the proper exercise of its
4 jurisdiction.

5 Except as otherwise provided in this Constitution or by law,
6 the Supreme Court shall have the duty and authority to provide for
7 the efficient and just operation of the judicial system.

8 "The Supreme Court shall appoint a clerk, who shall give bond
9 in such manner as is now or may hereafter, be required by law, and
10 he may hold his office for four years and shall be subject to
11 removal by said court for good cause entered of record on the
12 minutes of said court who shall receive such compensation as the
13 Legislature may provide."

14 SECTION 4. That Article V, Section 5, of the Texas
15 Constitution be amended to read as follows:

16 Section 5. The Court of Criminal Appeals shall exercise the
17 judicial power of the state in criminal cases except as otherwise
18 provided by this Constitution or by law [~~have appellate~~
19 ~~jurisdiction coextensive with the limits of the state in all~~
20 ~~criminal cases of whatever grade, with such exceptions and under~~
21 ~~such regulations as may be prescribed by law~~]. Its jurisdiction in
22 criminal cases shall be coextensive with the limits of the State
23 and its determinations shall be final in criminal cases as may be
24 prescribed by law. Its appellate jurisdiction in criminal cases
25 shall be final and extend to all criminal cases except as otherwise
26 provided in this Constitution or by law.

27 "The appeal of all cases in which the death penalty has been

1 assessed shall be to the Court of Criminal Appeals. The appeal of
 2 all other criminal cases shall be to the Courts of Appeals as
 3 prescribed by law. In addition, the Court of Criminal Appeals may
 4 on its own motion review a decision of a Court of Appeals in a
 5 criminal case as provided by law. Discretionary review by the
 6 Court of Criminal Appeals is not a matter of right, but of sound
 7 judicial discretion.

8 "Subject to such regulations as may be prescribed by law
 9 ~~[regarding criminal law matters,]~~ the Court of Criminal Appeals and
 10 the Judges thereof shall have the power to issue the writ ~~[writs]~~
 11 of habeas corpus, and, in criminal law matters, the writs of
 12 mandamus, procedendo, prohibition, and certiorari. The Court and
 13 the Judges thereof shall have the power to issue, ~~and~~ such other
 14 writs as may be necessary to protect its jurisdiction or enforce
 15 its judgments. The court shall have the power upon affidavit or
 16 otherwise to ascertain such matters of fact as may be necessary to
 17 the exercise of its jurisdiction.

18 "The Court of Criminal Appeals may sit for the transaction of
 19 business at any time during the year and each term shall begin and
 20 end with each calendar year. The Court of Criminal Appeals shall
 21 appoint a clerk of the court who shall give bond in such manner as
 22 is now or may hereafter be required by law, and who shall hold his
 23 office for a term of four years unless sooner removed by the court
 24 for good cause entered of record on the minutes of said court.

25 "The Clerk of the Court of Criminal Appeals who may be in
 26 office at the time when this Amendment takes effect shall continue
 27 in office for the term of his appointment."

SECTION 5. That Article V, Section 6, of the Texas Constitution be amended to read as follows:

"Section 6. The Legislature shall ~~[as soon as practicable after the adoption of this amendment]~~ divide the State into such ~~[not less than two nor more than three]~~ Supreme judicial districts ~~[and thereafter into such additional districts]~~ as the ~~[increase of]~~ population and business may require, and shall establish a Court of ~~[Civil]~~ Appeals in each of said districts, which shall consist of a Chief Justice and at least two Associate Justices, who shall have the qualifications as herein prescribed for Justices of the Supreme Court. The Court of ~~[Civil]~~ Appeals may sit in sections as authorized by law. The concurrence of a majority of the judges sitting in a section is necessary to decide a case. Said Court of ~~[Civil]~~ Appeals shall have appellate jurisdiction co-extensive with the limits of their respective districts, which shall extend to all ~~[civil]~~ cases of which the District Courts or County Courts have original or appellate jurisdiction, under such restrictions and regulations as may be prescribed by law. Provided, that the decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error. Said courts shall have such other jurisdiction, original and appellate, as may be prescribed by law.

"Each of said Courts of ~~[Civil]~~ Appeals shall hold its sessions at a place in its district to be designated by the Legislature, and at such time as may be prescribed by law. Said Justices shall be elected by the qualified voters of their respective districts at a general election, for a term of six years

1 and shall receive for their services the sum ~~[of three thousand~~
2 ~~five hundred dollars per annum, until otherwise]~~ provided by law.
3 ~~[Said courts shall have such other jurisdiction, original and~~
4 ~~appellate as may be prescribed by law.]~~ Each Court of ~~[Civil]~~
5 Appeals shall appoint a clerk in the same manner as the clerk of
6 the Supreme Court which clerk shall receive such compensation as
7 may be fixed by law.

8 "On the effective date of this amendment, the Justices of the
9 present Courts of Civil Appeals become the Justices of the Courts
10 of Appeals for the term of office to which elected or appointed as
11 Justices of the Courts of Civil Appeals, and the Supreme Judicial
12 Districts become the Supreme Judicial Districts for the Courts of
13 Appeals. All constitutional and statutory references to the Courts
14 of Civil Appeals shall be construed to mean the Courts of Appeals.

15 ~~"[Until the organization of the Courts of Civil Appeals and~~
16 ~~Criminal Appeals, as herein provided for, the jurisdiction, power~~
17 ~~and organization and location of the Supreme Court, the Court of~~
18 ~~Appeals and the Commission of Appeals shall continue as they were~~
19 ~~before the adoption of this amendment.~~

20 ~~"[All civil cases which may be pending in the Court of~~
21 ~~Appeals shall as soon as practicable after the organization of the~~
22 ~~Courts of Civil Appeals be certified to, and the records thereof~~
23 ~~transmitted to the proper Courts of Civil Appeals to be decided by~~
24 ~~said courts. At the first session of the Supreme Court the Court~~
25 ~~of Criminal Appeals and such of the Courts of Civil Appeals which~~
26 ~~may be hereafter created under this article after the first~~
27 ~~election of the Judges of such courts under this amendment. The~~

~~terms of office of the Judges of each court shall be divided into three classes and the Justices thereof shall draw for the different classes. Those who shall draw class No. 1 shall hold their offices two years, those drawing class No. 2 shall hold their offices for four years and those who may draw class No. 3 shall hold their offices for six years, from the date of their election and until their successors are elected and qualified, and thereafter each of the said Judges shall hold his office for six years, as provided in this Constitution.] "~~

SECTION 6. That Article V, Section 16, of the Texas Constitution be amended to read as follows:

"Section 16. The County Court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the Justices Court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200, and they shall have concurrent jurisdiction with the Justice Court in all civil cases when the matter in controversy shall exceed in value \$200, and not exceed \$500, exclusive of interest, unless otherwise provided by law, and concurrent jurisdiction with the District Court when the matter in controversy shall exceed \$500, and not exceed \$1,000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which Justices Courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed \$20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from Justices Courts

1 there shall be a trial de novo in the County Court, and appeals may
 2 be prosecuted from the final judgment rendered in such cases by the
 3 County Court, as well as all cases civil and criminal of which the
 4 County Court has exclusive or concurrent or original jurisdiction
 5 ~~[of civil appeals in civil cases to the Court of Civil Appeals and~~
 6 ~~in such criminal cases to the Court of Criminal Appeals, with such~~
 7 ~~exceptions and under such regulations]~~ as may be prescribed by law
 8 and this Constitution.

9 "The County Court shall have the general jurisdiction of a
 10 Probate Court; they shall probate wills, appoint guardians of
 11 minors, idiots, lunatics, persons non compos mentis and common
 12 drunkards, grant letters testamentary and of administration, settle
 13 accounts of executors, transact all business appertaining to
 14 deceased persons, minors, idiots, lunatics, persons non compos
 15 mentis and common drunkards, including the settlement, partition
 16 and distribution of estates of deceased persons and to apprentice
 17 minors, as provided by law; and the County Court, or judge thereof,
 18 shall have power to issue writs of injunctions, mandamus and all
 19 writs necessary to the enforcement of the jurisdiction of said
 20 Court, and to issue writs of habeas corpus in cases where the
 21 offense charged is within the jurisdiction of the County Court, or
 22 any other Court or tribunal inferior to said Court. The County
 23 Court shall not have criminal jurisdiction in any county where
 24 there is a Criminal District Court, unless expressly conferred by
 25 law, and in such counties appeals from Justices Courts and other
 26 inferior courts and tribunals in criminal cases shall be to the
 27 Criminal District Court, under such regulations as may be

COMMITTEE REPORT

The Honorable Bill Clayton
Speaker of the House of Representatives

May 16, 1979
(date)

Sir:

We, your COMMITTEE ON CONSTITUTIONAL AMENDMENTS, to whom was referred SJR 36
have had the same under consideration and beg to report back with the recommendation that it (measure)

- (X) do pass, without amendment.
() do pass, with amendment(s).
() do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested on _____ and is attached as part of this report.
(date)

Author's fiscal statement attached.

The Committee recommends that this measure be placed on the (Local / Consent) Calendar.

This measure () proposes new law.
() amends existing law.
(✓) proposes a constitutional amendment

House Sponsor of Senate Measure Ben Grant

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Brown, Ch.	X			
Close, V.C.	X			
Criss				X
Hollowell	X			
Hudson				X
Keller	X			
Leonard		X		
Sharp	X			
Willis	X			

Total:
6 aye
1 nay
0 present, not voting
2 absent

Albert D. Sweeney
CHAIRMAN
Reynolds
COMMITTEE COORDINATOR

RESOLUTION ANALYSIS

BACKGROUND INFORMATION:

The system of courts in Texas is prescribed in the various sections of Article V of the Texas Constitution. Essentially, the Supreme Court is set out as the highest court, with regard to civil matters referred from the Courts of Civil Appeals. The Court of Criminal Appeals has final jurisdiction of criminal cases referred from all lower courts. District and County courts are the trial courts under the system.

PURPOSE:

To amend the Constitution to change the courts of civil appeals to appeals courts to hear all matters, both civil and criminal.

SECTION BY SECTION ANALYSIS:

- Section 1. Amends Article V, Section 1, of the constitution to delete the word "civil" from the name of the Courts of Appeals, being granted judicial power by this section.
- Section 2. Amends Article V, Section 2, of the constitution to:
1. Rename Associate Justices of the Supreme Court as simply "Justices";
 2. Require the Chief Justice and Justices to be named to the Court to be licensed to practice law in this state;
 3. Clarifies language empowering the Governor to appoint in cases of a vacancy in the office of Chief Justice or Justice; and
 4. Deletes original transitional provision for Judges of the Commission of Appeals who became Justices.
- Section 3. Amends Article V, Section 3, of the constitution to delete provisions that the Supreme Court shall only have appellate jurisdiction over questions arising in the Courts of Civil Appeals and adds provisions that the Supreme Court has jurisdiction over all matters except as otherwise provided by the constitution, or by regulations promulgated by the Court. However, Court regulations may be overruled by the legislature. The Supreme Court is also empowered to provide for the efficient and just operation of the judicial system.
- Section 4. Amends Article V, Section 5, of the constitution to provide the Court of Criminal Appeals with jurisdiction over criminal cases and it shall have the final say. The section provides that all cases in which the death penalty has been assessed shall be directly appealed to the Court of Criminal Appeals, and all other appeals shall go to the Court of Appeals (formerly Courts of Civil Appeals) although the Court of Criminal Appeals may review any case upon its discretion.
- Section 5. Amends Article V, Section 6, of the constitution to create supreme judicial districts each with a Court of Appeals, deleting all references to Civil Appeals, and granting these courts appellate jurisdiction over all matters of District and County courts or as may be prescribed by law. The salary sum of \$3,500 per year for Appeals Judges is deleted.

A transitional provision is provided to allow justices of the Courts of Civil Appeals to become the Justices of the Courts of Appeals for the terms of office originally appointed or elected to. The Supreme Judicial Districts become the Supreme Judicial Districts for the Courts of Appeals. The transitional provision for original implementation of Section 6 is deleted.

SECTION BY SECTION ANALYSIS (Continued):

- Section 6. Amends Article V, Section 16, of the constitution to delete provisions that appeals from County courts on civil matters must be referred to the Courts of Civil Appeals and criminal matters to the Court of Criminal Appeals. Provisions for appeals from Criminal District Courts to the Court of Criminal Appeals are removed to allow appeals to be handled as prescribed by this act.
- Section 7. Provides that the constitutional amendment, if adopted becomes effective January 1, 1980.
- Section 8. Provides that the proposition "The constitutional amendment to change the name of the Courts of Civil Appeals and the names and qualifications for the justices of the Supreme Court and to prescribe the jurisdiction and authority of the appellate courts," be placed on the November 4, 1980 general election ballot.

RULEMAKING AUTHORITY:

This resolution delegates to the Supreme Court the power to provide for the "efficient and just operation of the judicial system" and to promulgate regulations for the cases in which its review is final. The legislature is empowered to overrule such regulations. The Court of Criminal Appeals is granted discretionary review of criminal cases pending before the Courts of Appeals. The Legislature is empowered to grant any other original and appellate jurisdiction by law to the Courts of Appeals.

SUMMARY OF COMMITTEE ACTION:

On April 3, 1979, SJR 36 was referred to the Committee on Constitutional Amendments.

On May 16, 1979, a Formal Meeting was held by the Committee on Constitutional Amendments and the Committee voted to report SJR 36 to the full House with the recommendation that it do pass by a vote of 6 ayes, 1 nay, and 2 absent.

This resolution proposes a constitutional amendment.

Amend the caption to conform to the
body of the bill

ADOPTED

APR 2 1979

Barry King
Secretary of the Senate



MAY 24 1979

AMENDMENT NO.

① *Barry Murray*
Chief Clerk
House of Representatives

BY

Grant

Amend Senate Committee Substitute for S.J.R. 36 in the following respects:

1. Amend Section 3 to read as follows:

That Article V, Section 3, of the Texas Constitution be amended to read as follows: ^{2/3}

"Sec³ 3. The Supreme Court shall exercise the judicial power of the state except as otherwise provided in this Constitution. Its jurisdiction [~~have appellate jurisdiction only except as herein specified, which~~] shall be co-extensive with the limits of the State and its determinations shall be final except in criminal law matters. Its appellate jurisdiction shall be final and shall extend to all cases except in criminal law matters and as otherwise provided in this Constitution or by law [~~questions of law arising in cases of which the Courts of Civil Appeals have appellate jurisdiction under such restrictions and regulations as the Legislature may prescribe. Until otherwise provided by law the appellate jurisdiction of the Supreme Court shall extend to questions of law arising in the cases in the Courts of Civil Appeals in which the Judges of any Court of Civil Appeals may disagree, or where the several Courts of Civil Appeals may hold differently on the same question of law or where a statute of the State is held void~~]. The Supreme Court and the Justices thereof shall have power to issue writs of habeas corpus, as may be prescribed by law, and under such regulations as may be prescribed by law, the said courts and the Justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction. The Legislature may confer original jurisdiction on the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State.

"The Supreme Court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such ^{7/11} matters of fact as may be necessary to the proper exercise of its jurisdiction.

"The Supreme Court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter, be required by law, and he may hold his office for four years and shall be subject to removal by said court for good cause entered of record on the minutes of said court who shall receive such compensation as the Legislature may provide."

2. Amend Section 4 to read as follows:

That Article V, Section 5, of the Texas Constitution be amended to read as follows:

House Am. # 1

Amend 5
"Sec 5. The Court of Criminal Appeals shall have final appellate jurisdiction co-extensive with the limits of the ~~State~~, and its determinations shall be final, in all criminal cases of whatever grade, with such exceptions and under such regulations as may be provided in this Constitution or as prescribed by law.

"The appeal of all cases in which the death penalty has been assessed shall be to the Court of Criminal Appeals. The appeal of all other criminal cases shall be to the Courts of Appeal as prescribed by law. In addition, the Court of Criminal Appeals may, on its own motion, review a decision of a Court of Appeals in a criminal case as provided by law. Discretionary review by the Court of Criminal Appeals is not a matter of right, but of sound judicial discretion.

Amend 5
"Subject to such regulations as may be prescribed by law, [~~regarding criminal matters~~], the Court of Criminal Appeals and ^{the} Judges thereof shall have the power to issue the writ [~~writs~~] of habeas corpus, and, in criminal law matters, the writs of mandamus, procedendo, prohibition, and certiorari. The Court and the Judges thereof shall have the power to issue [~~and~~] such other writs as may be necessary to protect its jurisdiction or enforce its judgments. The court shall have the power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

"The Court of Criminal Appeals may sit for the transaction of business at any time during the year and each term shall begin and end with each calendar year. The Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

"The Clerk of the Court of Criminal Appeals who may be in office at the time when this Amendment takes effect shall continue in office for the term of his appointment."

3. Amend Section 7 by striking "January 1, 1980" and substituting "September 1, 1981."

~~Article~~ Amendment # 3

By Mauzy

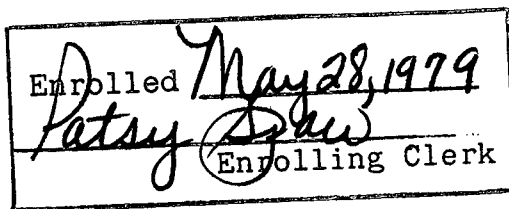
Amend SJR 36 by striking the date when the proposed constitutional amendment is to be voted on from November 6, 1979 to November 4, 1980.

ADOPTED *by 14 yeas 13 nays*

APR 2 1979

Betty King
Secretary of the Senate

Also am. #4



S.J.R. No. 36

SENATE JOINT RESOLUTION

proposing a constitutional amendment to change the name of the Courts of Civil Appeals and the names and qualifications of the justices of the Supreme Court and to prescribe the jurisdiction and authority of the appellate courts.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article V, Section 1, of the Texas Constitution be amended to read as follows:

"Section 1. The judicial power of this State shall be vested in one Supreme Court, in one Court of Criminal Appeals, in Courts of ~~Civil~~ Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

"The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto."

SECTION 2. That Article V, Section 2, of the Texas Constitution be amended to read as follows:

"Section 2. The Supreme Court shall consist of ~~the~~ ^(a) Chief Justice and eight ~~Associate~~ Justices, any five of whom shall constitute a quorum, and the concurrence of five shall be necessary to a decision of a case; provided, that when the business of the court may require, the court may sit in sections as designated by the court to hear argument of causes and to consider applications for writs of error or other preliminary matters. No person shall be eligible to serve in the office of Chief Justice or ~~Associate~~

Justice of the Supreme Court unless the person is licensed to practice law in this state and is ~~he be~~, at the time of ~~his~~ election, a citizen of the United States and of this state, and has ~~[unless he shall have]~~ attained the age of thirty-five years, and has ~~[shall have]~~ been a practicing lawyer, or a lawyer and judge of a court of record together at least ten years. Said Justices shall be elected (three of them each two years) by the qualified voters of the state at a general election; shall hold their offices six years, or until their successors are elected and qualified; and shall each receive such compensation as shall be provided by law. In case of a vacancy in the office of the Chief Justice or any Justice of the Supreme Court, the Governor shall fill the vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state. The Justices of the Supreme Court who may be in office at the time this amendment takes effect shall continue in office until the expiration of their term of office under the present Constitution, and until their successors are elected and qualified. ~~[The Judges of the Commission of Appeals who may be in office at the time this amendment takes effect shall become Associate Justices of the Supreme Court and each shall continue in office as such Associate Justice of the Supreme Court until January 1st next preceeding the expiration of the term to which he has been appointed and until his successor shall be elected and qualified.]~~"

SECTION 3. That Article V, Section 3, of the Texas Constitution be amended to read as follows:

1 "Section 3. The Supreme Court shall exercise the judicial
2 power of the state except as otherwise provided in this
3 Constitution. Its jurisdiction [~~have appellate jurisdiction only~~
4 ~~except as herein specified, which~~] shall be co-extensive with the
5 limits of the State and its determinations shall be final except in
6 criminal law matters. Its appellate jurisdiction shall be final
7 and shall extend to all cases except in criminal law matters and as
8 otherwise provided in this Constitution or by law [~~questions of~~
9 ~~law arising in cases of which the Courts of Civil Appeals have~~
10 ~~appellate jurisdiction under such restrictions and regulations as~~
11 ~~the Legislature may prescribe. Until otherwise provided by law the~~
12 ~~appellate jurisdiction of the Supreme Court shall extend to~~
13 ~~questions of law arising in the cases in the Courts of Civil~~
14 ~~Appeals in which the Judges of any Court of Civil Appeals may~~
15 ~~disagree, or where the several Courts of Civil Appeals may hold~~
16 ~~differently on the same question of law or where a statute of the~~
17 ~~State is held void~~]. The Supreme Court and the Justices thereof
18 shall have power to issue writs of habeas corpus, as may be
19 prescribed by law, and under such regulations as may be prescribed
20 by law, the said courts and the Justices thereof may issue the
21 writs of mandamus, procedendo, certiorari and such other writs, as
22 may be necessary to enforce its jurisdiction. The Legislature may
23 confer original jurisdiction on the Supreme Court to issue writs of
24 quo warranto and mandamus in such cases as may be specified, except
25 as against the Governor of the State.

26 "The Supreme Court shall also have power, upon affidavit or
27 otherwise as by the court may be determined, to ascertain such

1 matters of fact as may be necessary to the proper exercise of its
2 jurisdiction.

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4 in such manner as is now or may hereafter, be required by law, and
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6 removal by said court for good cause entered of record on the
7 minutes of said court who shall receive such compensation as the
8 Legislature may provide."

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10 Constitution be amended to read as follows:

11 "Section 5. The Court of Criminal Appeals shall have final
12 appellate jurisdiction coextensive with the limits of the state,
13 and its determinations shall be final, in all criminal cases of
14 whatever grade, with such exceptions and under such regulations as
15 may be provided in this Constitution or as prescribed by law.

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17 assessed shall be to the Court of Criminal Appeals. The appeal of
18 all other criminal cases shall be to the Courts of Appeal as
19 prescribed by law. In addition, the Court of Criminal Appeals may,
20 on its own motion, review a decision of a Court of Appeals in a
21 criminal case as provided by law. Discretionary review by the
22 Court of Criminal Appeals is not a matter of right, but of sound
23 judicial discretion.

24 "Subject to such regulations as may be prescribed by law,
25 ~~[regarding criminal law matters]~~ the Court of Criminal Appeals and

1 the Judges thereof shall have the power to issue the writ [writs]
 2 of habeas corpus, and, in criminal law matters, the writs of
 3 mandamus, procedendo, prohibition, and certiorari. The Court and
 4 the Judges thereof shall have the power to issue [and] such other
 5 writs as may be necessary to protect its jurisdiction or enforce
 6 its judgments. The court shall have the power upon affidavit or
 7 otherwise to ascertain such matters of fact as may be necessary to
 8 the exercise of its jurisdiction.

9 "The Court of Criminal Appeals may sit for the transaction of
 10 business at any time during the year and each term shall begin and
 11 end with each calendar year. The Court of Criminal Appeals shall
 12 appoint a clerk of the court who shall give bond in such manner as
 13 is now or may hereafter be required by law, and who shall hold his
 14 office for a term of four years unless sooner removed by the court
 15 for good cause entered of record on the minutes of said court.

16 "The Clerk of the Court of Criminal Appeals who may be in
 17 office at the time when this Amendment takes effect shall continue
 18 in office for the term of his appointment."

19 SECTION 5. That Article V, Section 6, of the Texas
 20 Constitution be amended to read as follows:

21 "Section 6. The Legislature shall ~~[as soon as practicable~~
 22 ~~after the adoption of this amendment]~~ divide the State into such
 23 ~~[not less than two nor more than three]~~ Supreme judicial districts
 24 ~~[and thereafter into such additional districts]~~ as the ~~[increase~~
 25 ~~of]~~ population and business may require, and shall establish a
 26 Court of ~~[Civil]~~ Appeals in each of said districts, which shall
 27 consist of a Chief Justice and at least two Associate Justices, who

1 shall have the qualifications as herein prescribed for Justices of
 2 the Supreme Court. The Court of ~~[Civil]~~ Appeals may sit in
 3 sections as authorized by law. The concurrence of a majority of
 4 the judges sitting in a section is necessary to decide a case.
 5 Said Court of ~~[Civil]~~ Appeals shall have appellate jurisdiction
 6 co-extensive with the limits of their respective districts, which
 7 shall extend to all ~~[Civil]~~ cases of which the District Courts or
 8 County Courts have original or appellate jurisdiction, under such
 9 restrictions and regulations as may be prescribed by law.
 10 Provided, that the decision of said courts shall be conclusive on
 11 all questions of fact brought before them on appeal or error. Said
 12 courts shall have such other jurisdiction, original and appellate,
 13 as may be prescribed by law.

14 "Each of said Courts of ~~[Civil]~~ Appeals shall hold its
 15 sessions at a place in its district to be designated by the
 16 Legislature, and at such time as may be prescribed by law. Said
 17 Justices shall be elected by the qualified voters of their
 18 respective districts at a general election, for a term of six years
 19 and shall receive for their services the sum ~~[of three thousand~~
 20 ~~five hundred dollars per annum, until otherwise]~~ provided by law.
 21 ~~[Said courts shall have such other jurisdiction, original and~~
 22 ~~appellate as may be prescribed by law.]~~ Each Court of ~~[Civil]~~
 23 Appeals shall appoint a clerk in the same manner as the clerk of
 24 the Supreme Court which clerk shall receive such compensation as
 25 may be fixed by law.

26 "On the effective date of this amendment, the Justices of the
 27 present Courts of Civil Appeals become the Justices of the Courts

1 ~~of Appeals for the term of office to which elected or appointed as~~
2 ~~Justices of the Courts of Civil Appeals, and the Supreme Judicial~~
3 ~~Districts become the Supreme Judicial Districts for the Courts of~~
4 ~~Appeals. All constitutional and statutory references to the Courts~~
5 ~~of Civil Appeals shall be construed to mean the Courts of Appeals.~~

6 " ~~[Until the organization of the Courts of Civil Appeals and~~
7 ~~Criminal Appeals, as herein provided for, the jurisdiction, power~~
8 ~~and organization and location of the Supreme Court, the Court of~~
9 ~~Appeals and the Commission of Appeals shall continue as they were~~
10 ~~before the adoption of this amendment.~~

11 " ~~[All civil cases which may be pending in the Court of~~
12 ~~Appeals shall as soon as practicable after the organization of the~~
13 ~~Courts of Civil Appeals be certified to, and the records thereof~~
14 ~~transmitted to the proper Courts of Civil Appeals to be decided by~~
15 ~~said courts. At the first session of the Supreme Court the Court~~
16 ~~of Criminal Appeals and such of the Courts of Civil Appeals which~~
17 ~~may be hereafter created under this article after the first~~
18 ~~election of the Judges of such courts under this amendment. The~~
19 ~~terms of office of the Judges of each court shall be divided into~~
20 ~~three classes and the Justices thereof shall draw for the different~~
21 ~~classes. Those who shall draw class No. 1 shall hold their offices~~
22 ~~two years, those drawing class No. 2 shall hold their offices for~~
23 ~~four years and those who may draw class No. 3 shall hold their~~
24 ~~offices for six years, from the date of their election and until~~
25 ~~their successors are elected and qualified, and thereafter each of~~
26 ~~the said Judges shall hold his office for six years, as provided in~~
27 ~~this Constitution.] "~~

1 SECTION 6. That Article V, Section 16, of the Texas
2 Constitution be amended to read as follows:

3 "Section 16. The County Court shall have original
4 jurisdiction of all misdemeanors of which exclusive original
5 jurisdiction is not given to the Justices Court as the same is now
6 or may hereafter be prescribed by law, and when the fine to be
7 imposed shall exceed \$200, and they shall have concurrent
8 jurisdiction with the Justice Court in all civil cases when the
9 matter in controversy shall exceed in value \$200, and not exceed
10 \$500, exclusive of interest, unless otherwise provided by law, and
11 concurrent jurisdiction with the District Court when the matter in
12 controversy shall exceed \$500, and not exceed \$1,000, exclusive of
13 interest, but shall not have jurisdiction of suits for the recovery
14 of land. They shall have appellate jurisdiction in cases civil and
15 criminal of which Justices Courts have original jurisdiction, but
16 of such civil cases only when the judgment of the court appealed
17 from shall exceed \$20, exclusive of cost, under such regulations as
18 may be prescribed by law. In all appeals from Justices Courts
19 there shall be a trial de novo in the County Court, and appeals may
20 be prosecuted from the final judgment rendered in such cases by the
21 County Court, as well as all cases civil and criminal of which the
22 County Court has exclusive or concurrent or original jurisdiction
23 ~~[of civil appeals in civil cases to the Court of Civil Appeals and~~
24 ~~in such criminal cases to the Court of Criminal Appeals, with such~~
25 ~~exceptions and under such regulations]~~ as may be prescribed by law
26 and this Constitution.

27 "The County Court shall have the general jurisdiction of a

1 Probate Court; they shall probate wills, appoint guardians of
2 minors, idiots, lunatics, persons non compos mentis and common
3 drunkards, grant letters testamentary and of administration, settle
4 accounts of executors, transact all business appertaining to
5 deceased persons, minors, idiots, lunatics, persons non compos
6 mentis and common drunkards, including the settlement, partition
7 and distribution of estates of deceased persons and to apprentice
8 minors, as provided by law; and the County Court, or judge thereof,
9 shall have power to issue writs of injunctions, mandamus and all
10 writs necessary to the enforcement of the jurisdiction of said
11 Court, and to issue writs of habeas corpus in cases where the
12 offense charged is within the jurisdiction of the County Court, or
13 any other Court or tribunal inferior to said Court. The County
14 Court shall not have criminal jurisdiction in any county where
15 there is a Criminal District Court, unless expressly conferred by
16 law, and in such counties appeals from Justices Courts and other
17 inferior courts and tribunals in criminal cases shall be to the
18 Criminal District Court, under such regulations as may be
19 prescribed by law; and in all such cases an appeal shall lie from
20 such District Court as may be prescribed by law and this
21 Constitution ~~[to the Court of Criminal Appeals]~~. When the judge of
22 the County Court is disqualified in any case pending in the County
23 Court the parties interested may, by consent, appoint a proper
24 person to try said case, or upon their failing to do so a competent
25 person may be appointed to try the same in the county where it is
26 pending in such manner as may be prescribed by law."

27 SECTION 7. This amendment becomes effective September 1,

1 1981.

2 SECTION 8. This proposed constitutional amendment shall be
3 submitted to the voters at an election to be held on November 4,
4 1980. The ballot shall be printed to provide for voting for or
5 against the proposition: "The constitutional amendment to change
6 the name of the Courts of Civil Appeals and the names and
7 qualifications of the justices of the Supreme Court and to
8 prescribe the jurisdiction and authority of the appellate courts."

S.J.R. No. 36

President of the Senate

Speaker of the House

I hereby certify that S.J.R. No. 36 was adopted by the Senate on April 2, 1979, by the following vote: Yeas 25, Nays 1; and that the Senate concurred in House amendment on May 28, 1979, by the following vote: Yeas 29, Nays 1.

Secretary of the Senate

I hereby certify that S.J.R. No. 36 was adopted by the House, with amendment, on May 25, 1979, by the following vote: Yeas 109, Nays 28, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

Proposing a constitutional amendment to change the name of the Courts of Civil Appeals and the names and qualifications of the justices of the Supreme Court, and to prescribe the jurisdiction and authority of the appellate courts.

2-2-79 Filed with the Secretary of the Senate

FEB 5 1979 Read, referred to Committee on JURISPRUDENCE

MAR 28 1979 Reported favorably.

MAR 28 1979 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

APR 2 1979 Ordered not printed.

APR 2 1979 Senate and Constitutional Rules to permit consideration suspended by unanimous consent 24 yeas, 4 nays.

APR 2 1979 To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of 25 yeas, 2 nays.

APR 2 1979 Read second time amended and ordered engrossed.
passed to third reading.

APR 2 1979 Caption ordered amended to conform to body of bill.

APR 2 1979 Senate and Constitutional 3-Day Rules suspended by vote of 25 yeas, 2 nays to place bill on third reading and final passage.

APR 2 1979 Read third time and passed by unanimous vote. 25 yeas, 1 nays.

OTHER ACTION:

Betty King
Secretary of the Senate

Apr 13 1979 Engrossed
Apr 3 1979 Sent to HOUSE

Patsy Spaw
ENGROSSING CLERK

MAY 25 1979 Motion to table motion to reconsider vote by which SR 36 was finally adopted prevailed
by record vote 93 yeas 45 nays 1PNV

APR 3 1979 Received from the Senate

APR 4 1979 Read first time and referred to Committee on Constitutional Amendment

MAY 16 1979 Reported favorably amended, sent to Printer 8:00 pm

MAY 17 1979 Printed and Distributed 10:23 am

MAY 17 1979 Sent to Committee on Calendars 10:38 am

MAY 24 1979 Read second time amended and finally adopted
failed adoption by Record Vote of 94 yeas 59 nays 1 present not voting

MAY 25 1979 Read third time amended and finally adopted
failed adoption by a Record Vote of 109 yeas 28 nays 2 present not voting

MAY 25 1979 Caption ordered amended to conform to body of resolution

MAY 26 1979 Returned to Senate.

Betty Murray
Chief Clerk of the House

MAY 26 1979 RETURNED FROM HOUSE with amendments

MAY 28 1979
Senate concurred in House amend-
ments by the following vote: 89
yeas, 1 nays.

59 MAY 17 AM 10:20

100-100000-100